

AUG 2 1979

MICHAEL RODAK, JR., CLERK

## APPENDIX

**In the Supreme Court of the United States**

OCTOBER TERM, 1978

No. 78-1261

---

NORMAN A. CARLSON, DIRECTOR FEDERAL BUREAU OF  
PRISONS, ET AL.,

*Petitioners*

—v.—

MARIE GREEN, ADMINISTRATRIX OF THE  
ESTATE OF JOSEPH JONES, JR.

---

ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE SEVENTH CIRCUIT

---

---

PETITION FILED FEBRUARY 13, 1979  
CERTIORARI GRANTED JUNE 18, 1979

**In the Supreme Court of the United States**

OCTOBER TERM, 1978

**No. 78-1261**

---

NORMAN A. CARLSON, DIRECTOR FEDERAL BUREAU OF  
PRISONS, ET AL.,

*Petitioners*

—v.—

MARIE GREEN, ADMINISTRATRIX OF THE  
ESTATE OF JOSEPH JONES, JR.

---

ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE SEVENTH CIRCUIT

---

INDEX TO APPENDIX \*

|   | Page |
|---|------|
| District Court Docket Entries .....                                     | 1    |
| Court of Appeals Docket Entries .....                                   | 4    |
| Complaint—June 18, 1976 .....   | 7    |
| Answer to Request for Production—September 3, 1976 .....                | 15   |
| Motion to Dismiss under FRCP—Rule 12(b)—October 7,<br>1976 .....        | 23   |
| Answer—November 1, 1976 .....   | 24   |
| Motion to Dismiss for Lack of Service—December 15, 1976..               | 28   |
| Order granting Petition for a Writ of Certiorari—June 18,<br>1979 ..... | 29   |

---

\* The memorandum and order of the district court, dated January 10, 1977, the court of appeals' opinion and judgment, dated August 3, 1978, and the order of the court of appeals denying rehearing, dated November 24, 1978, are contained in the appendices to the petition for a writ of certiorari (Pet. App. A-D).

## DOCKET ENTRIES

Number TH 76-93-C

GREEN, MRS. MARIE, Administrator of the estate of  
JOSEPH JONES, JR., (a/k/a ROSCOE SIMMONS) and next  
of kin of JOSEPH JONES, JR., PLAINTIFFS

v.

CARLSON, NORMAN, Director Federal Bureau of Prisons;  
BENSON, C. L., Warden, Terre Haute Penitentiary;  
BRUTSCHE, ROBERT L., M.D., Ass't Surgeon General;  
JOINT COMMISSION ON ACCREDITATION OF HOSPITALS;  
DEGARCIA, DR. BENJAMIN B., Chief Medical Officer;  
(Medical) WALTERS, WILLIAM (Training) Officer  
BARRY, EMMETT, Staff Officer, DEFENDANTS

| DATE    | PROCEEDINGS  |
|---------|--|
| 6/18/76 | Plaintiff files complaint, 4 counts and request for trial by Jury. Civil cover sheet filed. Summons issued.  |
| 8/9/76  | Mann, Mann, Chaney, Johnson & Hicks file appearance for defendant Joint Commission on Accreditation of Hospitals. Said defendant files motion for enlargement of time and request for production, c/s. |
| 8/10/76 | U. S. Marshal makes return on summons. \$32.68   |
| 8/11/76 | Motion of defendant, Joint Commission of Accreditation of Hospitals for enlargement of time GRANTED and time extended to Oct. 8, 1976.   |
| 8/30/76 | Respondents file motion for extension of time, c/s.  |
| 9/2/76  | Defendants motion for extension of time GRANTED and defendant ORDERED to respond by Oct. 7, 1976.  |
| 9/3/76  | Plaintiff, by counsel, files answer to request for production, with attachments thereto.   |
| 10/7/76 | Defendant Joint Commission on Accreditation of Hospitals files motion to dismiss with memorandum in support of said motion, c/s.   |

| DATE     | PROCEEDINGS  |
|----------|--|
| 10/20/76 | Set for pre-trial Nov. 19, 1976, at 2:45 P.M. (CJH)  |
| 11/1/76  | Defendants, EXCEPT Joint Association, file answer, 1st, 2nd, 3rd, 4th, 5th and 6th defense and counts 1, 2, 3 and 4, c/s.  |
| 11/19/76 | Court vacates pre-trial conference scheduled for this date. Further that defendants file briefs in support of 2nd, 3rd and 4th defenses by Dec. 15, 1976; that plaintiffs be allowed to Jan. 3, 1977 to file answer briefs and defendants be allowed to Jan. 14, 1977, to file reply briefs. |
| 11/30/76 | Plaintiff files answer to motion to dismiss of defendant Joint Commission on Accreditation of Hospitals, c/s.  |
| 11/30/76 | Set for pre-trial Dec. 22, 1976 at 10:00 A.M. (CJH)  |
| 12/2/76  | Defendant, Joint Commission on Accreditation of Hospitals, files reply to plaintiff's answer brief, c/s.   |
| 12/15/76 | The Federal defendants file motion to reconsider entry of Nov. 19, 1976, c/s. Said defendants also file motion to dismiss for lack of service, with memorandum in support thereto, c/s.  |
| 12/20/76 | Plaintiff files motion to postpone pre-trial conference, c/s.  |
| 12/21/76 | Motion to postpone pre-trial conference Granted and cause continued from pre-trial and trial calendars.  |
| 1/3/77   | Plaintiff files memorandum in opposition to motion to dismiss defendants Carlson, Lenson and Brutsche, c/s.  |
| 1/11/77  | Plaintiff files motion for leave to further plead, c/s.  |
| 1/10/77  | This cause came before the Court upon the various motions to dismiss of the defendants herein. Court having examined and considered same, IT IS ORDERED that plaintiff's complaint against all defendants herein   |

| DATE    | PROCEEDINGS   |
|---------|---|
|         | is hereby DISMISSED for lack of subject matter jurisdiction and JUDGMENT is hereby entered in favor of the defendants herein S.E. O.B. Vol. 8-P.9 (case closed) |
| 1/13/77 | Plaintiff's motion for leave to further plead DENIED.   |
| 3/4/77  | Plaintiff files notice of appeal. Plaintiff's \$250.00 cash cost bond applied as appeal bond.   |



U.S. COURT OF APPEALS  
SEVENTH CIRCUIT—DOCKET

General No. 77-1334

MRS. MARIE GREEN, Administratrix of the Estate of  
Joseph Jones, Jr., PLAINTIFF-APPELLANT

*vs.*

NORMAN CARLSON, Director, Federal Bureau of Prisons,  
ET AL., DEFENDANTS-APPELLEES

| DATE    | FILINGS-PROCEEDINGS  |
|---------|--|
| 3/23/77 | Entered order adopting the following procedural schedule:<br>(1) appellant to pay docketing fee<br>(2) district court clerk to prepare record<br>(3) record to be filed before April 6, 1977<br>(4) appellant's brief due April 25, 1977<br>(5) appellee's brief due June 8, 1977<br>(6) appellant's reply brief due June 22, 1977 |
| 4/20/77 | Filed o&3c appellant's motion for extension of time to file brief.   |
| 4/21/77 | Entered order extending time for filing appellant's brief to May ?, 1977; further ordered that appellees' brief is due June 17, 1977 and that appellant's reply brief is due July 1, 1977.   |
| 5/9/77  | Filed 15c appellant's brief, svc.  |
| 6/13/77 | Filed 15c appellee's brief, svc. (Joint Comm. on Accred. of Hosp.  |
| 6/20/77 | Filed 15c appellees' brief, svc.   |
| 6/24/77 | Filed o&3c appellant's motion for extension of time to file reply brief,   |
| 6/27/77 | Entered order extending time for filing appellant's reply brief, to July 15, 1977.   |

| DATE     | FILINGS-PROCEEDINGS   |
|----------|---|
| 7/18/77  | Filed 15c appellant's reply brief, svc.   |
| 10/5/77  | Entered order setting appeal for oral argument on Nov. 3, 1977 9:30. Oral argument limited to 20 min. per side.                   |
| 10/18/77 | Filed o&6c appellant's additional authority, svc. dist.   |
| 11/3/77  | Heard and taken under advisement.   |
| 11/7/77  | Filed o&3c appellant's motion to copy audio recording of oral argument, svc.  |
| 11/8/77  | Entered order granting appellant's motion to copy audio recording of oral argument.   |
| 11/9/77  | Filed o&6c appellees' additional authority, svc. dist.  |
| 8/3/78   | Filed an opinion by Judge Swygert.  |
| 8/3/78   | Entered final judgment order REVERSED, with costs, except as to dismissal of defendant C. L. Benson, and REMANDED.                |
| 8/11/78  | Filed O&3c of appellee's motion for extension of time to file pet. for rehearing; svc.  |
| 8/17/78  | Entered order granting appellee's motion of 8/11/78 for filing petition for rehearing is extended up to 9/18/78.                  |
| 9/18/78  | Filed 25c of appellee's petition for rehearing; dist., en banc., svc.   |
| 10/3/78  | Filed 1c of letter from clerk to counsel for appellant requiring answer to appellees' petition for rehearing en banc by 10/13/78. |
| 10/26/78 | Filed 25c of appellee's additional authority; dist., en banc., svc.   |
| 10/26/78 | Filed O&3c of motion for extension of time to file appellant's answer to appellees' petition for rehearing en banc; affd., svc.   |

| DATE        | FILINGS-PROCEEDINGS   |
|-------------|---|
| 10/27/78    | Entered order GRANTING appellant's motion of 10/26/78. The time within which the appellant must file her answer to the appellee's petition for rehearing in banc is extended up to 11/7/78. |
| 11/24/78    | Entered order denying appellee's petition for rehearing.  |
| 12/1/78     | Filed o&3c application for stay of mandate pending filing of petition for cert, svc.  |
| 12/7/78     | Entered order granting motion of 12/1/78 and the mandate of this court is Stayed up to 1/5/79 pending the filing of a petition for writ of cert. to Supreme Court of the U.S.               |
| [Illegible] | Filed O&3c of appellee's second application for stay of mandate pending filing of petition for certiorari; svc.   |
| [Illegible] | Entered order Granting application for stay of mandate only to the extent that the mandate of this court be Stayed up to 2/12/79.   |
| 2/20/79     | Filed notice of filing petition for cert on 2/13/79; Supreme Court No. 78-1261.   |
| 2/26/79     | Filed notice of filing petition for cert. on 2/13/79; Supreme Court No. 78-1261.  |
| 6/22/79     | Entered Supreme Court order dated 6/18/79, GRANTING petition for cert.  |

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

No. TH 76-93-C

MRS. MARIE GREEN, Administrator of the Estate of  
JOSEPH JONES, JR. (a/k/a ROSCOE SIMMONS) and next  
of kin of JOSEPH JONES, JR., PLAINTIFF

vs.

NORMAN CARLSON, Director, Federal Bureau of Prisons;  
C. L. BENSON, Warden, Terre Haute Penitentiary;  
ROBERT L. BRUTSHE, M.D., Assistant Surgeon General;  
JOINT COMMISSION ON ACCREDITATION OF HOSPITALS;  
DR. BENJAMIN B. DEGARCIA, Chief Medical Officer;  
Medical Training Assistant WILLIAM WALTERS; Staff  
Officer EMMETT BARRY, DEFENDANTS

COMPLAINT

INTRODUCTION

From January 6 through August 14, 1975, four black prisoners at the Federal Prison in Terre Haute died because of medical care so inappropriate as to evidence intentional maltreatment. The fact that all four inmates who died were black is not a mere coincidence, since it is the non-white prisoners who are the last to receive what little medical attention is available and are the last to be admitted to the prison hospital.

The prisoners at Terre Haute have tried all peaceful means available to bring to the attention of the authorities the blatant inappropriate medical care, which threatens the lives of all of them.

Despite letters of protest to prison officials and several Congressmen and a peaceful work stoppage joined by 900 prisoners, Defendants WARDEN BENSON, DIRECTOR CARLSON and their agents did nothing to change the blatant inadequate medical conditions at Terre Haute.

The instant Complaint is a classic case of medical care which is so clearly inadequate as to amount to a refusal to provide essential care, so inappropriate as to evidence intentional maltreatment causing death. Prisoners clearly do not surrender all their constitutional rights when they enter the prison gates. Decent medical care is a basic human right which must be afforded all people, whether or not imprisoned.

### JURISDICTION

1. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. 1331(a) and under the substantive rights created by the Constitution of the United States. Plaintiff, MRS. MARIE GREEN, next of kin and administrator of the estate of her son JOSEPH JONES (a/k/a ROSCOE SIMMONS), is suing for monetary damages for the death of her son.

### PARTIES

2. Plaintiff MARIE GREEN is the next of kin and administrator of the estate of her son, JOSEPH JONES, JR. (a/k/a ROSCOE SIMMONS), who died at Terre Haute Prison from willful, wanton and criminally negligent medical care of such a degree to constitute intentional maltreatment.

3. Defendant NORMAN CARLSON is the Director of the Bureau of Prisons and is responsible for the care and management of federal prisons; sued individually and in his official capacity as Director of Bureau of Prisons.

4. Defendant C. L. BENSON is the Warden of Terre Haute Prison and is responsible for the care and management of the prisoners confined in his institution; sued individually and in his official capacity as Warden.

5. Defendant ROBERT T. BRUTSHE is the Assistant Surgeon General of the United States and is responsible for monitoring the medical services at Terre Haute Prison; sued individually and in his official capacity as Assistant Surgeon General.

6. Defendant JOINT COMMISSION ON ACCREDITATION OF HOSPITALS is in charge of inspecting hospital facilities and supplying them with accreditation if

they meet set standards. This Commission accredited the hospital at Terre Haute Penitentiary.

7. Defendant DR. BENJAMIN B. DeGARCIA was Chief Medical Officer at the time of the death of JOSEPH JONES, JR., and was directly responsible for the functioning of the prison medical services; sued individually and in his official capacity as Chief Medical Officer.

8. Defendant WILLIAM WALTERS was a Medical Training Assistant employed at Terre Haute Prison as a doctor's aide and on duty and in charge of the medical facilities on the day of JOSEPH JONES' death; sued individually and in his capacity as a Medical Training Assistant.

9. Defendant Staff Officer EMMETT BARRY, custodial guard at Terre Haute Penitentiary and on duty in the hospital on the day of JOSEPH JONES' death; sued individually and in his official capacity as Staff Officer.

### COUNT I

1. The deceased JOSEPH JONES, JR. was convicted of bank robbery under the name of ROSCOE SIMMONS in 1972 and placed in the custody of the Attorney General of the United States at the Federal Bureau of Prisons under a sentence of ten years.

2. The deceased, JOSEPH JONES, JR., had a history of asthma and was diagnosed as a chronic asthmatic upon his entry into the Federal Prison System.

3. In 1973 JOSEPH JONES, JR. was given steroids for the treatment of an acute asthmatic episode, and he was treated with oral steroids intermittently over the next two years.

4. After being incarcerated in McNeil Island Penitentiary in Washington, and Leavenworth Penitentiary in Kansas, JOSEPH JONES, JR. was transferred to Terre Haute Prison in July of 1974.

5. In July of 1975, JOSEPH JONES' asthmatic condition deteriorated and he required hospitalization outside the penitentiary. For eight days he was hospitalized at St. Anthony's Hospital in Terre Haute, Indiana.



6. Upon his release from the hospital on August 6, 1975, the treating physician recommended that JONES not be sent back to Terre Haute Penitentiary, but instead that he be transferred to another climate. The doctor made two specific recommendations: Lexington, which has a good management program for chronic diseases; and Sandstone, which has a drier climate.

7. The recommendation was ignored by the Defendants and their agents. JOSEPH JONES was placed back in Terre Haute Prison, where he died eight days later.

8. On his return to the prison hospital, the deceased was not given proper medication as directed by the local hospital, nor was the treatment of steroids continued, as ordered by the physician at the local hospital.

9. On August 14, JOSEPH JONES complained of an asthma attack and was admitted to the hospital at about 3:00 p.m. From that time on, the Defendants were responsible for a course of conduct which was willful, wanton and criminally negligent and so blatantly inappropriate as to evidence intentional maltreatment, and was directly responsible for the death of JOSEPH JONES, JR.

10. Although JONES was in serious condition for eight hours before he died, no doctor was on duty, nor was any doctor called to treat him. There was a deliberate indifference to the deceased's repeated cries for essential treatment.

11. Defendant DR. BENJAMIN DeGARCIA was not present at the prison hospital on weekends, nor did he provide a procedure to check in in case of emergencies. Defendant DeGARCIA allowed a prison hospital to function with totally inadequate staff, improperly trained, and without proper equipment and procedures.

12. Medical Training Assistant WALTERS, a non-licensed nurse, was left in charge of the hospital. Although JONES was becoming more agitated and having more and more difficulty breathing, WALTERS left JONES alone with inmate nurses while he went around to the floors dispensing medications.

13. When WALTERS returned, he brought the respirator with him. WALTERS had been put on notice two

weeks prior that the respirator was broken, yet he still tried to go through the motions of administering the respirator. JONES pulled away from WALTERS, telling him that the respirator was making his breathing worse, and in fact the respirator was not functioning properly.

14. WALTERS then administered two shots of Thorazine (intravenously and intermuscularly) to JONES, who was having great difficulty breathing. The use of Thorazine is directly contradictory to the treatment necessary for someone suffering from an asthma attack.

15. About one-half hour after the second shot of Thorazine was administered, JOSEPH JONES had a respiratory arrest. Defendant Staff Officer BARRY and Medical Training Assistant WALTERS brought an emergency cart to administer an electric jolt to the deceased, but neither WALTERS nor BARRY knew how to operate this machine. JONES was pronounced dead at St. Francis Hospital in Terre Haute.

16. The death of inmate JONES was the fourth inmate death at Terre Haute resulting from inadequate medical care in a seven-month period.

17. Defendants CARLSON, BENSON and BRUTSCHE were all put on notice prior to the instant case that the medical treatment and facilities in the Terre Haute prison hospital were grossly inadequate. Letters were written to Director CARLSON and Warden BENSON complaining of the lack of proper medical care. In addition, prisoners at Terre Haute staged a work stoppage and peaceful protest to bring the serious problem of inadequate medical care to the attention of the prison authorities.

18. Despite the repeated requests for basic changes in the procedures, facilities and personnel at the Terre Haute prison hospital, Defendants CARLSON, BENSON and BRUTSCHE did nothing to adequately alter the grossly inadequate medical care being administered at Terre Haute. They ignored the requests for change despite three prior inmate deaths and allowed the prison hospital to operate in a manner which perpetuated grossly inappropriate medical care.



19. Defendant Assistant Surgeon General ROBERT L. BRUTSHE is employed by the United States Public Health Service and visited Terre Haute twice in the last year to review specific cases, as well as to inspect the total medical program at Terre Haute. He gave the medical facilities his approval and failed to recommend needed changes in equipment, procedures and availability of trained medical staff.

20. THE JOINT COMMISSION ON ACCREDITATION OF HOSPITALS gave accreditation to the prison hospital despite its serious deficiencies in equipment, procedures, and availability of doctors and trained medical staff.

21. The above alleged acts of the Defendants and their agents, coupled with the complete failure of the Defendants to provide any positive medical treatment for JOSEPH JONES, JR., constitutes a course of medical care so clearly inadequate as to amount to the refusal to provide essential care. Such acts were so blatantly inappropriate as to evidence intentional maltreatment resulting in the deprivation of JOSEPH JONES, JR.'s life, in violation of the due process clause of the Fifth Amendment to the United States Constitution.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for \$500,000 in actual damages, plus costs of this action, including attorneys fees; and such other relief as this Court deems just, proper and equitable.

## COUNT II

22-42. Plaintiff hereby realleges and incorporates paragraphs 1 through 21 of Count I as paragraphs 22 through 43 of this Count II, as if fully set forth herein.

43. The above alleged acts of the Defendants and their agents and the complete failure to provide any positive medical treatment for JOSEPH JONES, JR., as he suffered from a severe asthma attack which resulted in the loss of his life, constituted cruel and unusual punishment, violative of the Eighth Amendment to the United States Constitution.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for \$500,000 in actual damages, plus the costs of this action, plus such other relief as this Court deems just and proper.

## COUNT III

44-64. Plaintiff hereby realleges and incorporates paragraphs 1 through 21 of Count I as paragraphs 44 through 64 of this Count III, as if fully set forth herein.

65. The above alleged acts of Defendants and the absolute failure to provide a positive course of essential medical treatment was caused in part by the fact that the deceased was black, and he was denied basic humane medical treatment, which resulted in his death, on the basis of race, in violation of the equal protection component of the Fifth Amendment of the United States Constitution.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for \$500,000 in actual damages plus the costs of this action, including attorneys fees, and such other relief as this Court deems just and proper.

## COUNT IV

66-86. Plaintiff hereby realleges and incorporates paragraphs 1 through 21 of Count I as paragraphs 66 through 86 of this Count IV, as if fully set forth herein.

87. The above alleged actions of the Defendants were of a malicious and intentional nature and manifest a deliberate indifference of requests for essential treatment.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly and severally, for \$500,000 in punitive damages, plus costs and any relief which this Court deems appropriate.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL  
FOUR COUNTS.

Respectfully submitted,

---

MICHAEL DEUTSCH  
DENNIS CUNNINGHAM  
CHARLES HOFFMAN

Attorneys for Plaintiff  
110 South Dearborn, Room 707  
Chicago, Illinois 60603  
312/236-3504

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

No. TH 76-93-C

MRS. MARIE GREEN, Administratrix of the Estate of  
JOSEPH JONES, JR. (a/k/a ROSCOE SIMMONS) and next  
of kin of JOSEPH JONES, JR., PLAINTIFF

—vs.—

NORMAN CARLSON, Director, Federal Bureau of  
Prisons, ET AL., DEFENDANTS

ANSWER TO REQUEST FOR PRODUCTION

Plaintiff, Mrs. Marie Green, by her attorneys, answers  
the request of the Defendant, Joint Commission on Ac-  
creditation of Hospitals, for the production of documents,  
by the production of the attached documents, to wit:

1. A copy of the Petition for Letters of Administra-  
tion filed in the Circuit Court of Cook County, Illinois,  
in the Estate of Joseph A. Jones, Jr., Deceased, No. 76  
P 3693.
2. A copy of the Order Appointing Legal Representa-  
tive Of Decedent's Estate entered by the Court in the  
above mentioned matter.
3. A copy of the Letters of Administration issued in  
the above mentioned matter.

/s/ Charles Hoffman  
CHARLES HOFFMAN  
One of the Attorneys for Plaintiff

IN THE CIRCUIT COURT  
OF COOK COUNTY, ILLINOIS  
County Department, Probate Division

[Hearing on petition set for May 10, 1976,  
10 a.m., Room 1804, Chicago Civic Center  
Chicago, Illinois, 60602]

No. 76 P 3693  
Docket 817  
Page 400

ESTATE OF JOSEPH A. JONES, JR., DECEASED

PETITION FOR LETTERS OF ADMINISTRATION

Maria Jones Greene Robinson on oath states:

1. Joseph A. Jones, Jr., whose place of residence at the time of death was 4120 S. Prairie Avenue, Chicago, Cook County, Illinois, died August 14, 1975, at Terre Haute, Indiana, leaving no will.
2. Approximate value of the estate in this state:  
(cause of action)  
Personal \$500.00 Real \$ none Annual income from real estate \$ none.
3. The names and post-office addresses of the decedent's heirs (*indicating all persons entitled to nominate an administrator in preference to or equally with petitioner*) are:

| Name                        | Relationship | Right to nominate |           | Minor—M<br>Incompetent—I | Post-office address<br>(If unknown, so state)                     |
|-----------------------------|--------------|-------------------|-----------|--------------------------|---|
|                             |              | Preference—P      | Equally—E |                          |   |
| Marie Jones Greene Robinson | Mother       | E                 |           |                          | 4120 S. Prairie, Apt. 603<br>Chicago, Illinois 60653<br>(unknown) |
| Joseph A. Jones, Sr.        | Father       | E                 |           |                          |   |
| Ronald Jones                | Brother      |                   |           |                          | 1505 E. 83rd St., Chicago, Ill.                                   |
| Edwina Bowman               | Sister       |                   |           |                          | 4120 S. Prairie, Chicago, Ill.                                    |
| William Greene              | Brother      |                   |           |                          | (same)  |
| Adrian Greene               | Brother      |                   |           |                          | (same)  |
| Theodore Andrew Jackson     | Brother      |                   |           |                          | (same)  |
| Marin A. Davis              | Sister       |                   |           | M                        | (same)  |



4. Petitioner is the natural mother of decedent and is legally qualified to act as administrator or to nominate a resident of Illinois.

I ask that letters of administration issue to the following, qualified and willing to act:

| Name                        | Post-office address                                  |
|-----------------------------|--|
| Marie Jones Greene Robinson | 4120 S. Prairie, Apt. 603<br>Chicago, Illinois 60663 |

I ask that no authorization to appraise goods and chattels issue to the following, qualified to act: (not applicable).

/s/ Maria Jones Greene Robinson  
Petitioner  
4120 S. Prairie, Apt. 603  
Address  
Chicago, Illinois  
City

Signed and sworn to before me  
April 28, 1976

/s/ Patricia Handlin  
Notary public

Name  
Michael Deutsch  
Attorney for Petitioner

Address  
110 S. Dearborn  
Suite 707

City  
Chicago  
Telephone

(312) 236-3504

If a consul or consular agent is to be notified, name country: .....

---

MORGAN M. FINLEY  
CLERK OF THE CIRCUIT COURT  
OF COOK COUNTY

---

IN THE CIRCUIT COURT  
OF COOK COUNTY, ILLINOIS

County Department—Probate Division

ESTATE OF JOSEPH A. JONES, JR., DECEASED

No.

Docket

Page

ORDER APPOINTING LEGAL REPRESENTATIVE  
OF DECEDENT'S ESTATE

On the verified petition of Maria Jones Greene Robinson for issuance of letters as legal representative to Maria Jones Greene Robinson who has presented his bond which has been approved, or its acceptance of office,

It is ordered that letters \* of administration issue to Maria Jones Greene Robinson and that no authorization to appraise goods and chattels issue to (not applicable).

....., 19..

ENTER:

.....  
Judge

\* Insert "testamentary," "of administration," "of administration to collect," "of administration de bonis non," "of administration with the will annexed" or "of administration de bonis non with the will annexed".

Name Michael Deutsch

Attorney for petitioner

Address 110 S. Dearborn  
Suite 707

City Chicago, Illinois

Telephone (312) 236-3504

---

MORGAN M. FINLEY  
CLERK OF THE CIRCUIT COURT  
OF COOK COUNTY

---

IN THE CIRCUIT COURT  
OF COOK COUNTY, ILLINOIS

County Department, Probate Division

ESTATE OF JOSEPH A. JONES, JR., DECEASED

Original  
No. 76P 3693  
Docket 817  
Page 400

LETTERS OF OFFICE—DECEDENT'S ESTATE

Maria Jones Greene Robinson has been appointed Administrator of the estate of Joseph A. Jones, Jr., deceased, who died August 14, 1975, and is authorized to take possession of and collect the estate of the decedent and to do all acts required of him by law.

[SEAL]

Witness, May 10, 1976  
MORGAN M. FINLEY  
Clerk of court

CERTIFICATE

I certify that this a copy of the letters of office now in force in this estate.

Witness, May 10, 1976  
/s/ Morgan M. Finley  
Clerk of court

bjh

MORGAN M. FINLEY  
CLERK OF THE CIRCUIT COURT  
OF COOK COUNTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

No. TH 76-93-C

MRS. MARIE GREEN, Administrator of the Estate of  
JOSEPH JONES, JR. (a/k/a ROSCOE SIMMONS) and next  
of kin of JOSEPH JONES, JR., PLAINTIFF

vs.

NORMAN CARLSON, Director, Federal Bureau of  
Prisons, ET AL., DEFENDANTS

MOTION TO DISMISS UNDER FRCP—RULE 12(b)

Defendant, Joint Commission on Accreditation of Hospitals, moves the court to dismiss plaintiff's complaint for the following reasons:

1. The court lacks jurisdiction under 28 U.S.C. 1331 (a) because the amount in controversy is less than Ten Thousand (\$10,000.00) Dollars, exclusive of interest and costs.
2. The complaint fails to state a claim against this defendant upon which relief can be granted.

MANN, MANN, CHANEY, JOHNSON  
& HICKS  
33 S. 6th St., P. O. Box 1643  
Terre Haute, IN 47808  
(812) 232-0107

By /s/ [Illegible]  
Attorneys for Joint Commission on  
Accreditation of Hospitals



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

Cause No. TH 76-93-C

MRS. MARIE GREEN, Administrator of the Estate of Joseph Jones, Jr., also known as Roscoe Simmons, and next of kin of Joseph Jones, Jr.

v.

NORMAN CARLSON, Director, Federal Bureau of Prisons; CHARLES E. BENSON, Warden, Terre Haute Penitentiary; ROBERT L. BRUTSHE, M. D.; Assistant Surgeon General; DR. BENJAMIN B. DEGARCIA, Chief Medical Officer; WILLIAM WALTER, Medical Technical Assistant; EMMETT C. BARRY, Correctional Officer

ANSWER

The defendants Norman Carlson, Director, Federal Bureau of Prisons, Charles L. Benson, Warden, Terre Haute Penitentiary, Robert L. Brutshe, M. D., Assistant Surgeon General, Dr. Benjamin deGarcia, Chief Medical Officer, Walter Walter, Medical Technical Assistant, and Emmett C. Barry, Correctional Officer, by counsel, for answer to plaintiff's complaint state as follows:

FIRST DEFENSE

The Court lacks jurisdiction over the subject matter of the complaint.

SECOND DEFENSE

The Court lacks jurisdiction over the person of the defendants.

THIRD DEFENSE

There is an insufficiency of process as to defendants Carlson, Benson, and Brutshe.

FOURTH DEFENSE

There is an insufficiency of service of process as to defendants Carlson, Benson and Brutshe.

FIFTH DEFENSE

The complaint fails to state a claim upon which relief can be granted.

SIXTH DEFENSE

The above-named defendants for admission and denial to the paragraphs of plaintiff's complaint state that they;

1. Deny the allegations in paragraph 1.
2. Deny the allegations in paragraph 2.
3. Admit the allegations in paragraph 3.
4. Deny the allegations in paragraph 4.
5. Admit the allegations in paragraph 5, except to state that the name of the hospital is the Terre Haute Regional Hospital.
6. Are without knowledge or information sufficient to form a belief as to the truth of the allegation in the first sentence of paragraph 6, and they admit the allegation in the second paragraph of paragraph 6.
7. Admit the allegations in paragraph 7.
8. Admit the allegations in paragraph 8, except to state that the title of William Walter was Medical Technical Assistant.
9. Admit the allegations in paragraph 9, except to state that the title of Emmett Barry was Correctional Officer.

COUNT I

1. Admit the allegations of paragraph 1, except to state that the deceased was sentenced on January 23, 1973.
2. Deny that Joseph Jones, Jr., was diagnosed as a "chronic" asthmatic upon his entry into the Federal Prison System, and admit the remaining allegations.

3. Admit the allegations of paragraph 3.
4. Admit the allegations of paragraph 4.
5. Admit the allegations of paragraph 5.
6. Admit the allegations of paragraph 6.
7. Deny the allegations in the first sentence of paragraph 7, and admit the remaining allegations.
8. Deny the allegations in paragraph 8.
9. Admit the allegations in the first sentence of paragraph 9, and deny the remaining allegations.
10. Deny the allegations in paragraph 10.
11. Deny the allegations in paragraph 11.
12. Deny the allegations in paragraph 12.
13. Deny the allegations in paragraph 13.
14. Deny the allegations in paragraph 14.
15. Deny the allegations in paragraph 15.
16. Admit that the death of inmate Jones was the fourth inmate death at Terre Haute in approximately a seven-month period, but deny that such deaths resulted from inadequate medical care.
17. Admit that conclusory complaint letters were received about the medical facilities and that a work stoppage occurred, but deny the remaining allegations in paragraph 17.
18. Deny the allegations in paragraph 18.
19. Admit the allegations contained in paragraph 19, and deny the remaining allegations.
20. Admit that The Joint Commission On Accreditation of Hospitals gave accreditation to the prison hospital, and deny the remaining allegations.
21. Deny the allegations in paragraph 21.

Wherefore, the above-named defendants ask that the plaintiff take nothing by way of the complaint, that judgment be entered in favor of the defendants plus the costs of this action, and for such relief as the Court deems just and proper.

#### COUNT II

22-42. The above-named defendants reallege and incorporate by reference their responses to paragraphs 1 through 21 of Count I as their responses to paragraphs 22 through 42 of Count II.

43. The above-named defendants deny the allegations in paragraph 43.

Wherefore, the above-named defendants ask that the plaintiff take nothing by way of the complaint, that judgment be entered in favor of the defendants plus the costs of this action, and for such relief as the Court deems just and proper.

#### COUNT III

44-64. The above-named defendants reallege and incorporate by reference their responses to paragraphs 1 through 21 of Count I as their responses to paragraphs 44 through 64 of Count III.

65. The above-named defendants deny the allegations in paragraph 66.

Wherefore, the above-named defendants ask that the plaintiff take nothing by way of the complaint, that judgment be entered in favor of the defendants plus the costs of this action, and for such relief as the Court deems just and proper.

#### COUNT IV

66-86. The above-named defendants reallege and incorporate by reference their responses to paragraphs 1 through 21 of Count I as their responses to paragraphs 66 through 86 of Count IV.

87. The above-named defendants deny the allegations in paragraph 87.

Wherefore, the above-named defendants ask that the plaintiff take nothing by way of the complaint, that judgment be entered in favor of the defendants plus the costs of this action, and for such relief as the Court deems just and proper.

Respectfully submitted,

JAMES B. YOUNG  
United States Attorney

By /s/ Richard L. Darst  
RICHARD L. DARST  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

Cause No. TH 76-93-C

MRS. MARIE GREEN, Administrator of the Estate of  
Joseph Jones, Jr., also known as Roscoe Simmons, and  
next of kin of Joseph Jones, Jr.

v.

NORMAN CARLSON, Director, Federal Bureau of Prisons;  
CHARLES E. BENSON, Warden, Terre Haute Peniten-  
tiary; ROBERT L. BRUTSHE, M. D.; Assistant Surgeon  
General; DR. BENJAMIN B. DEGARCIA, Chief Medical  
Officer; WILLIAM WALTER, Medical Technical Assist-  
ant; EMMETT C. BARRY, Correctional Officer

MOTION TO DISMISS FOR LACK OF SERVICE

The defendants Norman Carlson, Director, Federal  
Bureau of Prisons, Charles L. Benson, Terre Haute Peni-  
tentiary, and Robert L. Brutsche, M.D., Assistant Sur-  
geon General, move to dismiss the complaint as against  
them for the reasons of insufficiency of process and in-  
sufficiency of service of process.

Respectfully submitted,

JAMES B. YOUNG  
United States Attorney

By /s/ Richard L. Darst  
RICHARD L. DARST  
Assistant United States Attorney

SUPREME COURT OF THE UNITED STATES

No. 78-1261

NORMAN A. CARLSON, Director, Federal Bureau of  
Prisons, ET AL., PETITIONERS

v.

MARIE GREEN, Administratrix of the Estate of  
Joseph Jones, Jr.

ORDER ALLOWING CERTIORARI. Filed June 18, 1979

The petition herein for a writ of certiorari to the  
United States Court of Appeals for the Seventh Circuit  
is granted.